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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF WASHINGTON
12

13 UNITED STATES OF AMERICA,) NO: 1:22-CR-2063-MKD
14)
15 Plaintiff,)
16 vs.) PLAINTIFF'S SENTENCING
17) MEMORANDUM
18)
19 BRANDON KELLY ROOT,)
20)
21 Defendant.)
22)
23 _____

24 Plaintiff, United States of America, by and through Vanessa R. Waldref,
25 United States Attorney for the Eastern District of Washington, and Michael D.
26 Murphy, Assistant United States Attorney, submits the following sentencing
27 memorandum. The Government is seeking a sentence of ninety-six months in
28 prison followed by three years of supervised release.

I.

SENTENCING CALCULATIONS

The Government agrees with the sentencing guidelines calculations in the PSIR. The PSIR sets out a guideline sentencing range of ninety-two to one hundred and fifteen months incarceration. PSIR, ECF No. 79 ¶ 151.

II.

GOVERNMENT’S OBJECTION TO PSIR

The Government has no objections to the PSIR.

III.

SENTENCING FACTORS UNDER 18 U.S.C. §3553(a)

The Guidelines are the starting point and the initial benchmark for the sentencing process. *Kimbrough v. United States*, 128 S. Ct. 558 (2007). The Court “take[s] into account the totality of the circumstances” to determine whether a sentence is reasonable. *Gall v. United States*, 128 S. Ct. 586, 597 (2007).

1. The nature and circumstances of the offense and the history and characteristics of Defendant.

In the instant case, the Defendant was driving on U.S. 97 in the early morning hours of June 11, 2017 when he crossed the center line of the highway and struck a vehicle carrying the victims head-on. ECF 79, ¶ 13. The Defendant was under the influence of alcohol. *Id.* at ¶ 14. The Defendant admitted to an investigating officer that he had been drinking alcohol that day. *Id.* at ¶ 15. Two of

1 the passengers in the other vehicle died and two were severely injured. ECF 79, ¶¶
 2 16-18. Defendant has had four prior conviction for driving under the influence of
 3 alcohol. ECF 79, ¶¶ 71, 76, 84, 92.
 4

- 5 2. The need for the sentence imposed to reflect the seriousness of the
 6 offense, promote respect for the law, and to provide just punishment.

7 The Defendant's conduct in driving under the influence of alcohol led to the
 8 death of two people and the serious injury of two others, as well as himself. The
 9 tragic results of the Defendant's decision to get into the driver's seat of a vehicle,
 10 despite consuming alcohol mandate a significant sentence.
 11

- 12 3. The need for the sentence imposed to afford adequate deterrence to
 13 criminal conduct.
 14

15 A sentence of ninety-six months should serve to deter further criminal
 16 conduct by the Defendant. Defendant qualifies for acceptance of responsibility.
 17 ECF 79, ¶¶ 59-60.
 18

- 19 4. The need for the sentence imposed to protect the public from further
 20 crimes of Defendant.

21 A sentence of eighty-six months would protect the public from any further
 22 crimes by the Defendant for a substantial period of time.
 23

- 24 5. The need for the sentence imposed to provide Defendant with needed
 25 educational or vocational training, medical care, or other correctional
 26 treatment in the most effective manner.

27 The Defendant has engaged in the abuse of alcohol for years. ECF 69, ¶ 130.
 28 He has engaged in substance abuse treatment, completing inpatient treatment and

1 outpatient treatment. *Id.* at 133, 134. He still appears to have a need for substance
2 abuse treatment. A sentence of eighty-six months imprisonment would permit the
3 Defendant to obtain such treatment while in custody.
4

5 IV.

6 GOVERNMENT’S SENTENCING RECOMMENDATION
7

8 The United States recommends that the Court impose a sentence of eighty-
9 six months in prison followed by three years of supervised release. The
10 government does not seek the imposition of a criminal fine, as the Defendant has
11 limited resources and restitution may be sought by the victims or their families.
12
13

14 Respectfully submitted this 27th day of June, 2023.
15

16 VANESSA R. WALDREF
17 United States Attorney
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19 s/ Michael D. Murphy
20 MICHAEL D. MURPHY
21 Assistant United States Attorney
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1 I hereby certify that on May 27, 2023, I electronically filed the foregoing
2 with the Clerk of the Court using the CM/ECF which will send notification of such
3 filing to counsel for the Defendant.
4

5
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